

**TOWNSHIP OF CHATHAM**  
**TOWNSHIP COMMITTEE MEETING MINUTES**  
**JULY 17, 2008**  
**DRAFT**

Mayor Tubbs called the regular meeting of the Township Committee of the Township of Chatham to order at 7:35 PM.

**Adequate Notice** of this meeting of the Township Committee was given as required by the Open Public Meetings Act as follows: Notice was given to both The Chatham Courier and the Morris County Daily Record on May 30, 2008; notice was posted on the bulletin board in the main hallway of the Municipal Building on May 30, 2008; and notice was filed with the Township Clerk on May 30, 2008.

Mayor Tubbs led the flag salute.

**Roll Call**

Answering present to the roll call were Committeeman Gallop, Committeeman O'Connor, Committeewoman Hagner, Deputy Mayor Brower and Mayor Tubbs.

**Approval of Agenda**

Deputy Mayor Brower moved to approve the agenda. Committeeman O'Connor seconded the motion and it carried unanimously.

**Special Recognition/Awards**

**Chatham Township Police Department**

Chief Goeckel presented special awards to several police officers. She also presented an award to Fred Passerella, a Madison resident who provided assistance to a young woman who was found unconscious on Southern Boulevard. Mayor Tubbs presented an award to Chief Goeckel for emergency medical service provided by her to the same young woman who was aided by Mr. Passerella.

**Department of Public Works**

Mayor Tubbs read two e-mails he received that complimented the hard work of the Department of Public Works. Deputy Mayor Brower added that he has never heard a negative comment about the Public Works crews. Mayor Tubbs read Resolution 2008-155.

**RESOLUTION 2008-155**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF  
CHATHAM, COUNTY OF MORRIS HONORING THE DEPARTMENT OF PUBLIC  
WORKS**

**WHEREAS, The Employees and Management of the Department of Public Works** have consistently demonstrated a high level of professionalism and dedication to their mission, and

**WHEREAS, The Members of the Department** often face adverse conditions, working through the night in the dead of winter fighting freezing rain, snow and ice followed months later by the scorching sun and heat of summer, and

**WHEREAS, The Road Crew** is responsible for maintaining and cleaning over 42 miles of streets and an extensive storm sewer system that includes over 1000 catch basins, all of which must be maintained in accordance with stringent State storm water regulations, and

**WHEREAS, The Buildings and Grounds Crew** maintains over 35 acres of recreation playing fields at Esternay Field, Shunpike Field and Nash Park which, by all accounts, are the best maintained fields in the entire region and a great source of pride to the teams that utilize them, an additional 30 acres of grass areas in addition to all of the municipal buildings, and Colony Pool and Tennis Center, and

**WHEREAS, The Vehicle Maintenance Team** maintains and repairs the entire fleet, everything from police cars to lawn mowers, dump trucks, spreaders and pavers, and

**WHEREAS, The Water Pollution Control Crew** operates and maintains two wastewater treatment plants, miles of underground pipes and three pump stations, all of which must operate 24 hours per day, 365 days per year.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham that we hereby recognize all of the employees of the Department of Public Works for their dedication and extend to them our heartfelt gratitude for the outstanding job that they do for the residents of Chatham Township.

Public Works Director Joe Barilla said that former Superintendent of Public Works Otto Vopelius instilled in the department the attitude that they are employed to serve the public, and he has imparted the same message to his staff. Mr. Barilla also thanked Administrator Ciccarone and the Township Committee for their support.

### **Reports**

Committeewoman Hagner reported that Morris Tomorrow will soon be holding their 25<sup>th</sup> anniversary celebration, and they have requested that the Township submit pictures of the community. The Recreation Committee has not as of yet had the opportunity to review the report prepared by Dan Mason from Jersey Professional Management, Inc. They are also going to discuss creating a formal policy for Recreation Program refunds. Furthermore, Committeewoman Hagner has written to Comcast to get things moving with the televising of Township Committee meetings. Deputy Mayor Brower reported that the Planning Board would like the Township Committee to review a situation that occurred with a developer. Committeewoman Hagner added that the Planning Board is keeping on track with COAH's timelines. Mayor Tubbs said that the League of Municipalities has filed suit against COAH because of their new regulations. Committeeman O'Connor reported that the Board of Education approved the acceptance of grant money to install lights at Cougar Field. Committeeman Gallop reported that the Open Space Committee inspected a property that is of interest to them. Additionally, the Open Space Committee is thinking about holding a contest to develop a unique sign to designate bike paths, and Committeeman Gallop asked if that would have any copyright issues. Mayor Tubbs reported that the number of Colony Pool non-residents memberships has decreased from last year, however attendance has increased. He also reported that the Chatham Library trustees are still looking into having a pickup/drop-off site at the Municipal Building. Administrator Ciccarone reported that a bond anticipation note sale was conducted, and the winning bidder was Commerce Capital. The note is for \$1,330,000. The bid has a premium of \$10,187.80 and a net interest cost of 1.9819%. Engineer Ruschke reported that Noe Avenue paving would be conducted through Morris County Co-op during the week of August 4, 2008. Deputy Mayor Brower raised a concern about the failure of the joints of the strips when roads are paved. Engineer Ruschke also reported that he heard back from the DOT regarding the bikeway, and there are some minor revisions to be made to the plans. The resolution of support was received from the Board of Education. The next step will be to get the necessary easements and advertise the project.

Deputy Mayor Brower moved to go out to bid for the bikeway project. Committeeman Gallop seconded the motion, and it carried unanimously.

Engineer Ruschke advised that he has not received any further feedback from the DEP regarding Shunpike Fields. Mayor Tubbs reported that excavation work is still being conducted at the Rolling Knolls site, and while a number of drums have been found, they have not contained anything unsafe. Some additional work still needs to be performed.

### **Hearing of Citizens/Petitions**

Mayor Tubbs opened the Hearing of Citizens.

Hearing none, Mayor Tubbs closed the Hearing of Citizens.

**Public Hearing** regarding the proposed assessments for sewer project for River Road, Fairmount Avenue, Johnson Drive, Mountain Avenue and Candace Lane

Attorney Woodward explained that the Township authorized and constructed a sewer project, and the total cost was \$1,117,706.80. The Sewer Assessment Commissioners determined that the amount that each property would be assessed is \$24,837.93, which can be paid off all at once or over a period of up to 15 years at an interest rate of 2.13% per annum. Deputy Mayor Brower asked about the repair of the roads that were affected by the sewer project. Engineer Ruschke said that more than adequate time was allowed before the final paving was conducted.

Mayor Tubbs opened the hearing on the sewer assessments to the public.

1. Joyce Hogg, Fairmount Avenue resident, asked if the assessments would apply to vacant lots. Mrs. Hogg was advised that it would.
2. Bernard Kennedy, Mountain Avenue resident, asked if the residents should already have been paying the assessment. Attorney Woodward explained that a formal notice of payment would be sent to the residents. Administrator Ciccarone added that it would be an annual assessment.

Hearing no further comment, Mayor Tubbs closed the Public Hearing.

#### **RESOLUTION 2008-140**

#### **RESOLUTION OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY APPROVING REPORT OF ASSESSMENT COMMISSIONERS REGARDING SEWER ASSESSMENTS FOR RIVER ROAD, FAIRMOUNT AVENUE, JOHNSON DRIVE, MOUNTAIN AND CANDACE LANE**

**WHEREAS**, the Township of Chatham has constructed a sewer extension project on River Road, Fairmount Avenue, Johnson Drive, Mountain Avenue and Candace Lane in accordance with applicable law, and has expended public funds to do so; and

**WHEREAS**, in accordance with applicable law, the Township is permitted to assess the cost of same, to the extent benefited, to the property owners directly affected thereby; and

**WHEREAS**, the Board of Assessment Commissioners of the Township of Chatham has received and reviewed the certified costs of the project and reports of the Township Engineer, has inspected and reviewed the improvements, has held a public hearing, upon notice and publication, in accordance with law, on April 29, 2008, has heard comment from members of the public, and has rendered its Final Report recommending that each of the properties benefited by the project as listed therein be assessed the amount of \$24,837.93 per hookup; and

**WHEREAS**, the Township Committee has conducted a public hearing on July 17, 2008, on notice and publication in accordance with law, at which the public was provided the opportunity to offer comment on said Final Report, and the Township Committee having considered carefully such comments and concerns as expressed at said hearing;

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that the Final Report of the Board of Assessment Commissioners, which is attached hereto and made part hereof, be accepted as submitted and that the proposed assessment in the amount of \$24,837.93 per hookup be confirmed on each of the properties listed therein.

**BE IT FURTHER RESOLVED**, that this assessment shall become effective and payable in accordance with law upon each of the properties listed in said Final Report, provided that payment of each assessment may be made in equal installments on an annual basis for 15 years with interest at the rate of 2.13% per annum on the remaining balance in accordance with the bond ordinance previously adopted to provide funding for the project, provided further that the first payment shall be due and payable on September 15, 2008 and each annual installment shall be due on September 15 of each succeeding year.

Committeeman O'Connor moved to adopt Resolution 2008-140. Deputy Mayor Brower seconded the motion.

**Roll Call:** Committeeman Gallop, Aye; Committeeman O'Connor, Aye; Committeewoman Hagner, Aye; Deputy Mayor Brower, Aye; Mayor Tubbs, Aye.

#### **Public Hearing/Final Adoption of Ordinances**

## ORDINANCE 2008-09

### AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, REVISING THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF CHATHAM, CHAPTER 30 OF THE TOWNSHIP CODE.

**BE IT ORDAINED** by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey that Chapter XXX, Land Development Regulations, of the Code of the Township of Chatham, is hereby amended as follows:

1. Section 30-6, Definitions, is amended to provide the definition of *garage* as follows:  
*Garage* shall mean a detached accessory structure or a portion of a main structure for the parking or temporary storage of automobiles of occupants of the main building.
2. Section 30-78.11, Maximum Coverage in Residence Districts. The last sentence of this subsection is amended to read as follows:  
As used in this subsection, the maximum coverage of the principle structure shall include only the foundation under the roofed portion of such structure and all area contiguous to the structure below an eave, bay window, oriel, balcony, or overhang which project more than three (3) feet beyond the face of the structure shall be included in the calculation of building coverage.
3. Section 30-96.13, Accessory Structure, is amended to modify the following subsections:
  - a.5. Accessory structures located in side yards shall meet the sideyard setback requirements for principal structures. Except for structures, such as fences, which are regulated elsewhere in this chapter, accessory structures other than buildings shall not be located closer to a side property line than the height of the accessory structure. No patio shall be located closer to the side property line than the sideyard setback for the principle structure.
  - a.6. Accessory structures located in rear yards shall not be located closer to a property line than the minimum sideyard requirement for a principal structure. Except for structures, such as fences, which are regulated elsewhere in this chapter, accessory structures other than buildings shall not be located closer to a property line than the height of the structure, provided that no patio shall be located closer to the rear property line than the sideyard setback for the principle structure.
4. Section 30-96.14.e, *Projections into Required Yards*, is amended to read as follows:  
Notwithstanding any other provision of this section, the following may project into any front, side or rear yard required in the various zones: uncovered landing including steps leading to the first floor of a building; chimney; and portions of a building including but not limited to eaves, bay windows, oriels, balconies, overhangs and coverings over steps, provided that no such portion of a building shall project more than three (3) feet into any required front, side or rear yard.
5. Section 30-96.20, Lot Grading Plans, is amended to add a new subsection 96.20c.4(m) to read as follows:  
(m)The lot grading plan shall show sufficient information to determine whether wetlands are present on the lot.
6. This ordinance shall take effect as provided by law.

Attorney Woodward said that this ordinance was carried over a few meetings so that more discussion could be held. There are issues to be sorted out regarding steep slopes and maximum coverage. The steep slopes issue could be separated into a different ordinance. Engineer Ruschke explained the difference in calculating maximum coverage based on foundations or based on roofs. Deputy Mayor Brower asked about a 35-foot setback for accessory structures. Following a brief discussion about section 3-a.5, the word “accessory” was added in line 4 before the word “structure” for clarification. Deputy Mayor Brower also asked about specifying when wetlands delineations are required. Attorney Woodward said that a specific standard would be necessary when deciding when to require wetlands delineations. The ordinance was amended to require that “sufficient information,” rather than “sufficient details,” be submitted as part of a site plan to determine if wetlands might be present. Committeewoman Hagner raised concerns about the provision regarding steps and landings. Engineer Ruschke explained that the provision referred to by Committeewoman Hagner would reinforce his interpretation of the ordinance that is currently in effect. Attorney Woodward said that in order to make the changes requested by the Township Committee, they would have to formally amend and republish the ordinance, and adopt the amended ordinance at a future meeting.

Deputy Mayor Brower moved to amend Ordinance 2008-09. Committeeman Gallop seconded the motion.

**Roll Call:** Committeeman Gallop, Aye; Committeeman O'Connor, Aye; Committeewoman Hagner, Nay; Deputy Mayor Brower, Aye; Mayor Tubbs, Aye.

Public Hearing on Ordinance 2008-09 will be scheduled for August 14, 2008.

### **Introduction of Ordinances**

#### **ORDINANCE 2008-14**

#### **BOND ORDINANCE PROVIDING FOR SOUTHERN BOULEVARD FIREHOUSE IMPROVEMENTS IN THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, NEW JERSEY, APPROPRIATING THE AMOUNT OF \$800,000 THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$760,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE COST THEREOF.**

**BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM IN THE COUNTY OF MORRIS, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:**

Section 1. The improvement described in Section 3 of this bond ordinance is hereby authorized to be undertaken by the Township of Chatham, New Jersey, as a general improvement. For the improvement or purpose described in Section 3, there is hereby appropriated \$800,000, including the sum of \$40,000 as the down payment for the improvement or purpose. The down payment is now available for capital improvement purposes in the Capital Improvement Fund.

Section 2. In order to finance the cost of the improvement or purpose not covered by application of the down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$760,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued, are Southern Boulevard Fire House improvements, including all work and materials necessary therefore or incidental thereto, all pursuant to plans and specifications on file with the Township, which plans and specifications are hereby approved.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefore.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with the bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8(a). The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale, and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained, and the name of the purchaser.

Section 5. The capital budget of the Township of Chatham is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 6. Any grants received by the Township for any purpose set forth in Section 3 hereof are hereby appropriated for said purpose set forth in Section 3 hereof and shall be applicable either to the direct payment of the cost of such purpose or to the payment or reduction of the obligations issued or authorized herein. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 7. The following additional matters are hereby determined, declared, recited, and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense. It is an improvement or purpose that the Township may lawfully undertake as a general improvement, and no part of the cost thereof have been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of the improvement or purpose, within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of bonds authorized by this bond ordinance, is 15 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and bond anticipation notes provided in this bond ordinance by \$760,000. The obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An amount not exceeding \$80,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

Section 8. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable real property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 9. This bond ordinance shall take effect 20 days after publication thereof after final adoption, as provided by the Local Bond Law.

Deputy Mayor Brower moved to introduce Ordinance 2008-14. Committeewoman Hagner seconded the motion.

**Roll Call:** Committeeman Gallop, Aye; Committeeman O'Connor, Aye; Committeewoman Hagner, Aye; Deputy Mayor Brower, Aye; Mayor Tubbs, Aye.

Public Hearing on Ordinance 2008-14 will be scheduled for August 14, 2008.

### **ORDINANCE 2008-13**

#### **AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, ESTABLISHING RULES AND PROCEDURES FOR THE OPERATION OF THE COLONY RECREATION CENTER TENNIS COURTS**

**BE IT ORDAINED** by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey that Chapter XX of the Township Code at Section 20-3 is hereby amended to establish rules and procedures for the operation of the Colony Recreation Center Tennis courts as follows:

1. The Caption of Section 20-3 is hereby amended to read: **Skate Park and Colony Recreation Center Tennis Rules and Procedures.**

2. Subsection 20-3c is hereby added to read as follows:

Rules and procedures are established for the operation of the Colony Recreation Center tennis courts as follows:

a. Hours of Operation. Daily from 7:00 a.m. until dark. The tennis courts will be closed during wet, snow or icy conditions or during court maintenance periods. The Township reserves the right to close the tennis courts for any reason deemed necessary.

b. Rules.

1. Minimum age for use – 7 years.

2. No food or beverages other than water are allowed inside the tennis courts. All litter shall be deposited in the receptacles provided.
3. Smoking, use of drugs, alcohol, profanity or abusive language or vandalism is strictly prohibited and shall result in automatic and/or permanent expulsion from this facility.
4. Use of radios, stereos or any type of amplified sound is prohibited.
5. No skateboards, roller skates, bicycles, scooters and motorized vehicles of any kind are permitted on the courts.
6. Violation of these rules may result in expulsion from this facility and revocation of any privileges for its use.
7. No dogs or other animals are permitted on the courts.
8. Private lessons are prohibited without prior written consent of the Township Administrator.
9. Rubber soled shoes are required to be worn on the courts.
3. Existing subsection 20c, Penalties, is hereby renumbered as subsection 20d.
4. This ordinance shall take effect as provided by law.

Administrator Ciccarone explained the effect that this ordinance would have. Mayor Tubbs asked about restricting private lessons being conducted on the public courts. Administrator Ciccarone suggested that private lessons be prohibited unless the Township grants specific permission on a case-by-case basis. Deputy Mayor Brower also requested a provision concerning rubber soled shoes.

Deputy Mayor Brower moved to introduce Ordinance 2008-13. Committeeman O'Connor seconded the motion.

**Roll Call:** Committeeman Gallop, Aye; Committeeman O'Connor, Aye; Committeewoman Hagner, Aye; Deputy Mayor Brower, Aye; Mayor Tubbs, Aye.

Public Hearing on Ordinance 2008-13 will be scheduled for August 14, 2008.

## **ORDINANCE 2008-15**

### **AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY REVISING AND AMENDING THE TREE PROTECTION, REMOVAL, AND REPLACEMENT ORDINANCE**

**BE IT ORDAINED** by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, as follows:

1. The Revised General Ordinances of the Township of Chatham, 1995, Chapter XXII, Protection of Trees, is hereby amended in its entirety, as follows:

#### **Chapter XXII**

#### **PROTECTION OF TREES**

##### **22-1 PURPOSE.**

1. To regulate the removal and replacement of trees within the Township; to protect trees on municipal lands; to establish a Tree Protection Committee; and to provide penalties for violations.

2. To preserve the maximum number of trees within the Township through both protection and replacement, as well as, to control indiscriminate destruction of trees.

This ordinance places special emphasis on the preservation and replacement of trees around the perimeter of a property. It is not intended to restrict homeowners from reasonable utilization of their property or removing dead, diseased, or hazardous trees. It is not intended to restrict homeowners from conducting routine pruning of trees or other maintenance procedures in areas of overgrown vegetation.

##### **22-2 FINDINGS AND DETERMINATION.**

a. Trees and wooded areas constitute a natural resource that contribute to the value of property throughout the Township and promote the general welfare of the community.

b. Trees are related to natural, scenic and aesthetic values, and promote a desirable visual environment, which the Township desires to protect.

c. Trees stabilize soil, help reduce water and wind erosion, reduce water pollution, reduce noise, produce oxygen, reduce carbon dioxide, help to improve air quality, provide wildlife habitat and otherwise create a pleasant atmosphere in the Township.

d. Trees provide shade and reduce energy consumption through transpiration of water vapor.

Mature trees require many years of growth and are not readily replaceable.

The preservation of wooded areas and the planting of trees, will be advanced by the establishment of rules and regulations regarding the removal and/or planting of trees on developed, undeveloped or subdividable lots within the Township.

g. By reason of the conditions and circumstances recited above, it is determined that it is necessary and proper for the protection of persons and property and for the promotion of the welfare of the Township and its inhabitants that the Township adopt reasonable rules and regulations to protect trees within the Township.

### **22-3 DEFINITIONS.**

As used in this chapter:

*Dead tree* shall mean a tree which has ceased to physiologically function. Dead trees typically are devoid of leaves and have loose bark.

*Diseased tree* shall a tree which is terminally infected with fungus or virus or insects.

*Developed lot* shall mean a legally established and existing parcel of land, with boundaries determinable from official records, having a building, which is occupied or capable of being occupied, located thereon.

*Diameter at Breast Height (DBH)* shall mean the diameter of a tree measured 4.5 feet above the ground level on the downhill side for existing trees.

*Dripline area* shall mean the circular area surrounding a tree, the radius of which area shall be the distance from the trunk of the tree to the outermost branches of the tree.

*Municipal land* shall mean any property owned by the Township, including any lot or right of way for streets, sidewalks, walkways or municipal utilities except for sanitary sewers and storm sewers on developed lots. For the purposes of this chapter, a right-of-way for a street, sidewalk, walkway or municipal utility which is dedicated for public use on a subdivision plot approved by the Township shall be deemed to be property owned by the Township only upon and after the formal acceptance of such right-of-way by the Township.

*Person* shall mean any individual, firm, partnership, corporation, company, association or other legal entity, including any trustee, receiver, assignee or other similar representative.

*Replacement tree* shall mean a balled 2.5 inch caliper deciduous shade tree or conifer as measured at a point 4 ½ feet above the base of the trunk, which species is native and long lasting. A list of recommended replacement trees is available from the Township Land Development Office and in Appendix A hereto.

*Screening* – A tree, trees or hedges, or fencing which provide a visual barrier between properties.

*Subdividable lot* shall mean an undeveloped portion of a legally established and existing parcel of land, which portion meets the minimum zoning requirements in the zone in which is located. Subdividable lot shall not include that portion of the parcel of land which meets the minimum zoning requirements and upon which is located a building which is occupied or is capable of being occupied.

*Township* shall mean the Township of Chatham in the County of Morris.

*Tree* shall mean any woody perennial plant with a main stem or trunk exceeding twelve (12”) inches in diameter (36.70 inches in circumference) DBH.

*Township Forester* shall mean a qualified tree expert, certified by the State of New Jersey pursuant to N.J.S.A. 45:15C-1 et seq. appointed by the Township Committee

*Tree removal* shall mean all trees permitted to be cut down. If stumps are removed they shall be disposed of properly and not buried on the property.

*Tree removal permit* shall mean a permit issued pursuant to the provisions of this Chapter authorizing the removal of a tree or trees located upon a developed, undeveloped lot or subdividable lot within the Township.

*Undeveloped lot* shall mean a legally established and existing parcel of land, with boundaries determinable from official records, which does not have a building capable of being occupied, located thereon. Whenever approval is granted by the Planning Board to an application for preliminary subdivision, each lot shown upon the subdivision plot which does not have a building located thereon shall be deemed a separate undeveloped lot for the purposes of this chapter. None of the following shall be considered an undeveloped lot for the purposes of this chapter:

- a. Municipal land as defined herein;
- b. Any parcel of land owned in fee by the United States of America, the State of New Jersey, the County of Morris or a public utility company regulated by the New Jersey Public Utilities Commission; or



c. Any lot upon which there is conducted an income-producing business involving the removal of trees, provided that the conduct of such business is a permitted use under applicable zoning regulations or a legally recognized nonconforming use.

## **22-3 GENERAL PROVISIONS**

**22-3.1 Location of trees; Determination.** A tree shall be considered to be located upon a lot if any part of the trunk or main stem of the tree is located upon such lot. If the trunk is located on one lot or more lots, the tree shall be considered be located on each such lot. If a tree is located upon two (2) or more lots for the purposes of this chapter, any application for work related to said tree shall be made upon mutual agreement of the respective owners as evidenced by their signatures upon the application.

**22-3.2 Applicability.** Any person who proposes to remove any tree (s) (as defined herein) on a developed lot, an undeveloped lot, a subdividable lot or on municipal land, must apply for a tree removal permit.

## **22-4 ACTIVITIES INVOLVING TREES ON MUNICIPAL LAND, DEVELOPED, UNDEVELOPED AND SUBDIVIDABLE LOTS**

**22-4.1 Responsibilities of Owner and Contract-Purchaser.** An owner or contract-purchaser of a developed, undeveloped or subdividable lot who employs any person to perform any work upon such lot shall not permit such person to violate any provision of this chapter.

**22-4.2 Prohibited Activities.** Except as provided in this Chapter, no person shall Injure, deface, poison or damage any tree located on any developed, undeveloped or subdividable lot within the Township;

b. Interfere with, damage, destroy or attach anything to any posts, supports or guards of any tree located upon any municipal land.

### **22-4.3 Regulated Activities.**

a. No person shall remove any tree from a developed lot, an undeveloped or subdividable lot until a tree removal permit has been obtained in accordance with the provisions of this Chapter with respect to such lot.

b. No public utility shall perform or authorize the performance of any maintenance work on any overhead wires, underground pipes or conduits, wherein any pruning, defacing, scarring or removal of trees will occur, without having previously applied for and obtained approval from the Township Land Use Office. Public utilities shall follow the American National Standards Institute (ANSI) A300 for pruning and maintenance of trees.

### **22-4.4 Tree Replacement and Reforestation.**

If the removal of a protected tree(s) is requested and the lot/property is at or below the recommended density set forth in this ordinance, then replacement trees will be required for each tree removed. The Township Forester shall have the discretion to require the planting of screen species as an alternative to replacement tree(s) if it would serve to provide better screening in keeping with the purpose of this ordinance.

b. Exceptions to the replacements may be granted by the Township Forester or designee for the following conditions: Trees that are damaged by (1) catastrophic wind or storm, (2) unsafe, (3) dead, (4) diseased or (5) where conditions will not likely lead to the planting of additional trees (e.g. meadows). If the owner reasonably believes that the tree constitutes an imminent hazard to life or property, the tree may be removed provided a permit is applied for as soon after the removal as reasonably possible

**22-4.5 Tree Replacement and Reforestation Standards.** The following standards shall apply to reforestation:

a. It is recommended that the type of replacement tree(s) shall be in accordance with Appendix A hereto. Native species are preferred.

b. Replacement trees required pursuant to this Section shall be in addition to any required pursuant to Section 30 - 63.1h.

### **22-4.6 Site Protection During Construction.**

During any construction work the following tree protection measures shall be implemented:

a. Tree protection measures where required shall be installed on the lot with snow fencing or other durable material and verified by the Township Forester or other designated official prior to soil disturbance.

b. Protective barriers shall not be supported by the plants they are protecting, but shall be self-supporting. Barriers shall be a minimum of four (4') feet high and shall not be removed until construction is complete.

c. Snow fencing used for tree protection shall be firmly secured along the drip line, but no less than six (6') feet from the trunk when the drip line is less than six (6')feet.

d. The grade of the land located within the drip line shall not be raised or lowered more than six (6") inches unless compensated by welling or retaining wall methods; and in no event shall welling or retaining wall methods be less than six (6') feet from the trunk of a tree.

e. No soil stockpiling, storage of building materials, parking or driving of construction equipment or vehicles shall be permitted within the drip line or within six (6') feet of any remaining trees, whichever is greater.

f. Any clearing within the drip line, or within six (6') feet of the trunk of a remaining tree, whichever is greater, shall be done by non-mechanical equipment.

g. Where a tree that has been noted for preservation is severely damaged and unable to survive, tree replacement shall occur as provided in Section 22-4.4.

## **22-5 APPLICATION FOR TREE REMOVAL PERMIT**

**22-5.1 Application Information.** Any person desiring to remove any Tree, shall file an application for a tree removal permit with the Land Use Office and shall not commence the regulated activity without first having been issued a tree removal permit. The application form is available in the Land Use Office or on the Township website at [www.chathamtownship.org](http://www.chathamtownship.org). Each application form shall include a brief statement of the particular circumstances, conditions or reasons necessitating the removal of the tree or trees. Each application shall include a tree replacement plan, if applicable. The replacement plan shall include a diagram showing the size, type and location of trees to be planted. Each filed application constitutes permission to have the site inspected by the Township Forester or other designee.

The removal, protection, and replacement of Trees, in accordance with a lot grading plan or site plan must be identified on the plan submitted with said application to the Planning Board, Board of Adjustment, Township Construction Official or Township Engineer. The plan shall include both tabular and pictorial markings of the following information:

1. Total number and size of Tree(s) to be removed
2. Total number of trees that will remain and size
3. Total number of Tree(s) to be replaced (inclusion of species option)
4. Number of Tree(s) to be protected

**22-5.2 Identification of Trees; Lot Diagram Requirements.** Unless the tree or trees can be identified and located by description, the application shall be accompanied by two (2) copies of a dimensioned lot diagram.

**22-5.3 Filing of Applications.** An application shall be considered as filed when it has been properly completed and delivered to the Township Land Use Office.

**22-5.4 Acceptance of Application.** A tree removal permit cannot be issued by the Township Land-use Office for any part of a subdivision, site plan, or lot grading plan, until the appropriate board has given approval (preliminary or final) for such site plan, subdivision, or lot grading plan. Applications shall be made for a tree removal permit at the time of subdivision or site plan application. The survey included with this first application must include preliminary foundation location and set backs for each lot with present and proposed final grading. The lot boundaries for all the lots must be staked as well as the outline of the infrastructure. Trees to be removed must be clearly marked.

## **22-6 FEES AND ESCROWS.**

**22-6.1 Fees.** A fee shall be paid to the Township of Chatham at the time of the filing of each application for a tree removal permit according to the following schedule:

Standard Tree Permit = \$25.00

Tree Permit in connection with Lot Grading, building permit or site plans = time spent at the rate of \$90 per hour.

**22-6.2 Purpose of Fees.** The fees required by subsection 22-6.1 are to cover Township expenses for review of the application and inspections. No fee shall be returned to any applicant by reason of the disapproval in whole or in part of any application.

## **22-7 REVIEW OF APPLICATION FOR PERMIT; ISSUANCE OF PERMIT**

**22-7.1 Copies Provided to Members of the Tree Protection Committee.** Upon filing of an application for a tree removal permit, the Secretary shall forward a copy to the Chair of the Tree Protection Committee and Township Forester, and in the case of subdivision, site plan, or lot grading plan, to the Planning Board, Board of Adjustment, or Zoning Officer as appropriate.

### **22-7.2 Review of Applications.**

a. All standard tree removal permit applications shall be reviewed by the Director of Public Works, or his/her designee, to determine whether there is a basis for the issuance of a removal permit which may require inspection of the site that is the subject of any tree removal application. If the Director of Public Works, or his/her designee determines that no further action is needed, the application will be approved.

b. All tree removal permit applications in connection with lot grading, building permits, or site plans shall be reviewed by the Township Forester or his/her designee, to determine whether there is a basis for the issuance of a removal permit which may require inspection of the site that is the subject of any tree removal application. If the Township Forester, or his/her designee determines that no further action is needed, the application will be approved.

#### **22.7.3 Procedures:**

1. The Township Forester or any other official designee shall take into consideration the following criteria when reviewing tree removal permit applications:
  - a. Whether the tree removal is proposed for an area which is to be occupied by an approved structure, building or other improvement or whether it will be within 10 feet distance to an approved structure, building or other improvement.
  - b. The potential effect of the tree removal on existing drainage patterns.
  - c. The density of trees in the area and the overall effect of the tree removal on the physical nature of the subject property and surrounding properties. Each lot should contain 16 trees per acre. The calculation used for recommended density: number of trees per acre multiplied by 16 trees = Density Recommendation.
  - d. Whether the proposed activity would result in significant change in the screening between existing or proposed building on contiguous lots or wooded aspect of the lot as viewed from the adjacent public road.
  - e. Whether the tree(s) proposed for removal is located along the street line or around the perimeter of the property.
  - f. The potential hardship that would be imposed upon the applicant if the permit is denied.

**22-7.4 Time for Approval of Application.** The Township Forester or Officer shall act upon every completed application within 15 working days of its being filed.

**22-7.5 Denial of Application.** In the event that the Township Official shall deny any application, the reasons for such disapproval shall be set forth upon the application. (Ord. No. 20-72 Art, 9, para. 9.04)

**22-7.6 Issuance of Tree Removal Permit.** Whenever the Township Officials shall approve an application for a tree removal permit, the Township Land Use Office shall issue a tree removal permit in accordance with the terms of the approval together with a copy of the application bearing the signature of an official from the Land Use Office. The permit, once issued, must be posted at the site of removal in a visible area at the time during the removal and for four (4) weeks after the tree is removed. In the event that the Township Official shall disapprove an application in its entirety, the Township Land-use Office shall issue to the applicant a copy of the application bearing the reasons for disapproval.

**22-7.7 Withholding of Building or Grading Permit.** Whenever a construction or grading permit is requested and the removal of a tree(s) is required in connection with the development of the lot, the Township Construction Official shall not issue the construction permit until a Tree Removal Permit has been issued and Tree protection measures are in place.

### **22-8 STOPPAGE OF UNLAWFUL WORK**

**22-8.1 Issuance of Stop Work Order; Service of Notice.** The Township Land Use Office may issue a stop work order for any tree work or other activity which is carried on in violation of any Tree Removal Permit or any provision of this chapter. The order shall be issued in writing and a copy served on any person engaged in tree work upon the subject lot. If no such person is present upon the lot then the order shall be served upon the applicant. If no permit has been issued for the tree work then the order shall be served upon the owner of the lot. Thereafter, any further work shall comply with the terms and conditions of any permit and the provisions of this chapter, except for that specifically authorized by the Township Land-use Office. Upon the first violation, the stop work order for any tree violation shall remain in effect until the violation has been eliminated to the satisfaction of the Township Forester or Township designee. Upon the second violation, the stop work order will be effective for a minimum of a 1 week period.

### **22-9. APPEAL AND HEARING**

**22-9.1 Time for Appeal; Procedure; Time for Hearing.** Any person aggrieved by any action of the Tree Protection Committee pursuant to any of the provision of Section 22-8, 22-9, or 22.10 shall have the right to appeal to the Township Committee within fifteen (15) working days after the action complained of. The appeal shall be made by filing with the Township Clerk a written statement setting forth the action complained of and the grounds for the appeal. The Township Committee shall set a time and a place for the hearing of the appeal, which hearing shall be held within twenty (20) working days after the filing of the appeal, and notice of the hearing shall be given to the appellant by the Township Clerk. At the hearing, the appellant and his or her attorney may present evidence, including the testimony of witnesses. The Township

Clerk shall keep minutes of the hearing and copies of the documents or exhibits referred to, if any.

**22-9.2 Decision on Appeal.** Within fifteen (15) working days after the completion of the hearing, the action taken by the Tree Protection Committee shall be affirmed, modified or reversed by the Township committee by a recorded vote of the majority of the total members thereof. The findings and reasons for the disposition of the appeal shall be stated on the records of the Township Committee and the Township Clerk shall give a copy to the appellant.

#### **22-10 SERVICE OF NOTICE**

**22-10.1 Notice to Persons; Notices to Township.** Whenever, under the provisions of this chapter, any notice or order is required to be given to or served upon any person, such notice or order may be given or served by certified mail addressed to the person to be notified at the address set forth in the application filed by such person. Any notice to the Township shall be served by personal service upon the Township Clerk or by certified mail addressed to the Township Clerk at the Township Municipal Building.

**22-10.2 Enforcement.** In addition to the enforcement authority granted to the agencies and officers described in this Chapter, the Police Department of the Township shall also have the power to enforce this Chapter.

#### **22-11 PENALTIES**

Any person who shall violate any provision of this chapter and any person who shall fail to comply with an order issued pursuant to this chapter or the terms and conditions of any tree removal permit issued pursuant to this chapter shall, upon conviction, be subject to a fine or penalty stated in Chapter 1, Section 1-5, provided that no monetary fine or penalty shall be less than \$250.00 and no more than \$1000.00, said fine or penalty to be deposited in an account to the credit and for the use of the Tree Protection Committee. In the event of violations involving more than one (1) tree, a violation as to each such tree shall be considered a separate offense. Any person who violates this ordinance within two (2) years of the date of a previous violation shall be required to appear, upon issuance of a summons, to appear in municipal court.

#### **22-12 TOWNSHIP FORESTER**

The Township Forester shall be appointed by the Township Committee and shall function within the Township Land Use Office. The Township Forester shall review applications for tree removal permits, conduct inspections, and issue violation notices.

Other municipal employees may be designated to perform the duties of the Township Forester.

#### **22-13 TREE PROTECTION COMMITTEE.-**

**22-13.1 Established; Membership; Terms of Office.** There is hereby established a committee to be known as the Tree Protection Committee, which shall consist of five (5) regular members. The Township Administrator and the Director of Public Works (or his designee) shall be member's ex-officio and shall be voting members. The Township Committee shall appoint from Township residents five (5) members at large.

The term of office of each regular member of the Tree Protection Committee shall be two years commencing on January 1 of the year of appointment and expiring December 31 of the second year, provided that such regular member shall continue to serve until a replacement is appointed by the Township Committee. A vacancy shall be filled in the same manner as the original appointment for the unexpired term only.

Five regular members shall be appointed upon the effective date of this ordinance to serve an initial term until December 31, 2008. Thereafter, three regular members shall be appointed for initial terms of two years commencing January 1, 2009. The remaining two regular members shall be appointed for initial terms of 1 year commencing January 1, 2009 with succeeding terms of two years each.

The Tree Protection Committee shall have an annual organizational meeting, shall otherwise meet as needed and shall keep such records as necessary. Three (3) members of the Tree Protection Committee shall constitute a quorum to conduct a business meeting.

**22-13.2 Chairperson.** At the annual organizational meeting, the members of the Tree Protection Committee shall elect a Chairperson.

**22-13.3 Duties and Powers.** In addition to the duties and authority given to the Tree Protection Committee by the various provisions of this chapter, the Committee shall have the power and authority to:

- a. Review and advise the Township Planning Board and the Board of Adjustment regarding tree protection in connection with subdivision, site plan, and variance applications including pre-development inspection, shade tree selection review for subdivisions (30-63.1 Chapter XXX Land Development Review) and landscape plan review for site plans (30-63.3 h of Chapter XXX Land Development Review).

- b. Where applicable, compare the tree removal application with the lot grading application and comment to the Township Engineer within 20 days of receipt, if changes in grading can be effected to preserve trees.
- c. Inspect trees and shrubs on municipal land and recommend to the Township Committee action for their care and treatment and removal when in its opinion removal is necessary.
- d. Report to the Township Committee any cases of disease within the Township, which in its opinion require action for the protection and preservation of woody perennial plants and shrubs.
- e. Formulate and submit to the Township Committee plans and programs for the planting, care and treatment of trees and shrubs on municipal land, including street rights-of-way, walkways, and other Township easements and rights-of-way.
- f. Develop and distribute to citizens educational information for the planting, care and maintenance of trees and shrubs.
- g. Oversee the Township's tree replacement program.
- h. Maintain annual records on permit activity
- i. The Committee shall consult with a tree professional as needed.

**22-14 SEVERABILITY.**

In the event that any provision of this ordinance determined to be invalid, such determination shall not invalidate any other provision of the ordinance.

- 2. This Ordinance shall take effect as provided by law.

Committeeman O'Connor moved to introduce Ordinance 2008-15. Deputy Mayor Brower seconded the motion.

**Roll Call:** Committeeman Gallop, Aye; Committeeman O'Connor, Aye; Committeewoman Hagner, Aye; Deputy Mayor Brower, Aye; Mayor Tubbs, Aye.

Public Hearing on Ordinance 2008-15 will be scheduled for August 14, 2008.

**Consent Agenda**

**RESOLUTION 2008-141**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP  
OF CHATHAM AUTHORIZING PAYMENT OF BILLS, PAYROLLS,  
SCHOOL TAXES, AND COUNTY TAXES**

**BE IT RESOLVED** that bills in the total amount of \$785,154.10 and the prior month's payroll of \$474,981.12 Current Fund, \$43,581.15 Sewer No. 1, \$8,368.61 Sewer No. 2, and \$11,286.32 Police Private Employment be paid.

**BE IT FURTHER RESOLVED** that taxes due to the School District of the Chathams, for the month of July 2008, in the amount of \$2,739,407.59 be paid.

**RESOLUTION 2008-142**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP  
OF CHATHAM APPROVING MINUTES OF MEETINGS**

**BE IT RESOLVED** that the Township Committee of the Township of Chatham acknowledges receipt of and approves the minutes of the Township Committee meeting held on June 26, 2008.

**RESOLUTION 2008-143**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP  
OF CHATHAM, ACKNOWLEDGING RECEIPT OF REPORTS AND MINUTES FROM  
VARIOUS BOARDS AND COMMITTEES**

**BE IT RESOLVED** by the Township Committee of the Township of Chatham that the following monthly reports of departments be acknowledged as received:

- Tax Collector – June
- Municipal Court – June
- Construction Official – June
- Fire Official – April, May, June
- Chatham Emergency Squad – June

Animal Control – June  
State Training Fees – 2<sup>nd</sup> Quarter  
Dog Licensing Official – 2<sup>nd</sup> Quarter  
Registrar – 2<sup>nd</sup> Quarter  
Police Department – May  
Public Works – June

**BE IT RESOLVED** by the Township Committee of the Township of Chatham that the following minutes from various boards and committees be acknowledged as received:  
Board of Health – June

**RESOLUTION 2008-144**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, REFUNDING OVERPAYMENT OF TAXES**

**WHEREAS**, due to inadvertence, error, tax appeal settlement or judgement, an overpayment of property taxes has been made for the following property; and  
**WHEREAS**, the Tax Collector has recommended the refund of such overpayment,  
**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham that the following refunds be made:

<u>BLOCK</u>	<u>LOT</u>	<u>OWNER NAME &amp; ADDRESS</u>	<u>AMOUNT</u>
48.07	11	Davenport, Donald & Stephanie 70 Glenmere Drive Chatham, NJ 07928	\$3,780.67

**RESOLUTION 2008-145**

**A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING THE 2008 BUDGET.**

**WHEREAS**, N.J.S. 40A: 4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have become available by law and the amount thereof was not determined at the time of the adoption of the budget, and

**WHEREAS**, the Director may also approve the insertion of an item of appropriation for an equal amount, and

**WHEREAS**, the Township of Chatham will receive \$300.00 from the State of New Jersey Domestic Violence Training Program and wishes to amend its 2008 Budget to include these funds as a revenue,

**NOW, THEREFORE, BE IT RESOLVED**, that the Township Committee of the Township of Chatham, County of Morris, State of New Jersey hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2008 in the sum of \$300.00 which is will be available as a revenue from:

**Miscellaneous Revenues – Section F: Special Items of General Revenue – Public and Private Revenues Offset with Appropriations:**

**Domestic Violence Training Program, and**

**BE IT FURTHER RESOLVED**, that a like sum of \$300.00 be and the same is hereby appropriated under the caption of:

**Public and Private Programs Offset by Revenues:**

Domestic Violence Training Program.

**BE IT FURTHER RESOLVED**, that the Township Clerk forward a copy of this resolution to the Director of Local Government Services.

**RESOLUTION 2008-146**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPROVING RECREATION PROGRAM FEE REFUNDS**

**WHEREAS**, the Recreation Director has recommended that the following requests for refunds of Recreation Program fees be approved:

<u>NAME</u>	<u>ADDRESS</u>	<u>Program</u>	<u>AMOUNT</u>
Ann Tufariello	2 Maple Street Chatham, NJ 07928	Summer Recreation	\$120.00
Dorothy Lee	10 Pembroke Road Chatham, NJ 07928	Colony Pool – Nanny Fee	\$125.00

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham that the above listed Recreation Program refunds be approved.

**BE IT FURTHER RESOLVED** by the Township Committee of the Township of Chatham that the Township Clerk forward a certified copy of this resolution to the Township Chief Financial Officer and to the Recreation Director.

#### **RESOLUTION 2008-147**

#### **CAPITAL BUDGET AMENDMENT RESOLUTION** (See Attached)

#### **RESOLUTION 2008-148**

#### **RESOLUTION OF THE TOWNSHIP OF CHATHAM, COUNTY MORRIS, STATE OF NEW JERSEY REDUCING THE PERFORMANCE GUARANTY SYCAMORE/CUSTOM LIVING, LLC FOR THE SYCAMORE DRIVE SUBDIVISION**

**WHEREAS**, the Planning Board has granted preliminary and final subdivision approval for a development known as Sycamore Hill adjacent to Meyersville Road; and

**WHEREAS**, said approvals required, in accordance with the requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the Developer's Agreement between the developer and the Township, the posting of a performance guaranty to secure completion of the public improvements that were part of the project, and which was posted by the developer; and

**WHEREAS**, as set forth by John Ruschke, P.E. in his report dated July 8, 2008, the public improvements have been substantially completed to the extent that the performance guaranty may be reduced to the amount of \$4,788.00 for the planting of street trees, which covers the remaining work described by the engineer's report; and

**WHEREAS**, Sycamore/Custom Living, LLC, has been the subject of a legal proceeding in the United States Bankruptcy Court, captioned In Re: Sycamore/Custom Living, LLC; Steven P. Kartzman, Trustee v. Township of Chatham, Docket No. 06-10864NLW, Adv. No. 08-1057NLW, and is the subject of an order dated June 3, 2008, by the Honorable Novalyn L. Winfield that directs the funds to be released as a result of this resolution to the bankruptcy trustee, Steven Kurtzman, Esq.;

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that the performance guaranty posted by the developer is hereby reduced, in accordance with the report of John Ruschke, P.E., dated July 8, 2008, to the amount of \$4,788.00 in cash, and that the surety bond, in the amount of 88,191.50, and the cash bond in the amount of \$5,400.00 plus two-thirds of the interest accumulated thereon for the placement monuments, and the amount of \$5,011.06 plus two-thirds of the interest thereon in cash bond for the public improvements, be released and, pursuant to the above referenced court order, be paid over to the bankruptcy trustee, Steven Kurtzman, Esq.;

**BE IT FURTHER RESOLVED**, that the Township shall retain one-third of the accumulated interest on the cash bonds pursuant to N.J.S.A. 40:55D-53.1 for administrative and custodial expenses, and further provided that no relief granted herein shall be construed to relieve the developer from the obligation, once all work is completed and accepted, to post a maintenance guaranty in accordance with the requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., and the Developer's Agreement between the Township and the developer.

#### **RESOLUTION 2008-154**

#### **RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPROVING FIRE DEPARTMENT MEMBERSHIP**

**WHEREAS**, the Township of Chatham has designated the Green Village Volunteer Fire Department and the Chatham Township Volunteer Fire Department as the official fire companies for the Township; and

**WHEREAS**, members of both departments are eligible for membership in N.J. State Firemen's Association as provided by applicable law; and

**WHEREAS**, in order to become members of the association, the Township is required to certify that each applicant is an active member of the respective Fire Department;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey that the following named individual has been admitted to active membership in the respective department as approved by the Township Committee.

<u><b>NAME</b></u>	<u><b>FIRE DEPARTMENT</b></u>
Matthew J. Glogolich	Chatham Township Volunteer Fire Department
Kyle F. Dobiszewski	Chatham Township Volunteer Fire Department
Christopher M. Hogan	Chatham Township Volunteer Fire Department

#### **RESOLUTION 2008-155**

#### **RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS HONORING THE DEPARTMENT OF PUBLIC WORKS**

**WHEREAS**, The Employees and Management of the Department of Public Works have consistently demonstrated a high level of professionalism and dedication to their mission, and

**WHEREAS**, The Members of the Department often face adverse conditions, working through the night in the dead of winter fighting freezing rain, snow and ice followed months later by the scorching sun and heat of summer, and

**WHEREAS**, The Road Crew is responsible for maintaining and cleaning over 42 miles of streets and an extensive storm sewer system that includes over 1000 catch basins, all of which must be maintained in accordance with stringent State storm water regulations, and

**WHEREAS**, The Buildings and Grounds Crew maintains over 35 acres of recreation playing fields at Esternay Field, Shunpike Field and Nash Park which, by all accounts, are the best maintained fields in the entire region and a great source of pride to the teams that utilize them, an additional 30 acres of grass areas in addition to all of the municipal buildings, and Colony Pool and Tennis Center, and

**WHEREAS**, The Vehicle Maintenance Team maintains and repairs the entire fleet, everything from police cars to lawn mowers, dump trucks, spreaders and pavers, and

**WHEREAS**, The Water Pollution Control Crew operates and maintains two wastewater treatment plants, miles of underground pipes and three pump stations, all of which must operate 24 hours per day, 365 days per year.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham that we hereby recognize all of the employees of the Department of Public Works for their dedication and extend to them our heartfelt gratitude for the outstanding job that they do for the residents of Chatham Township.

Deputy Mayor Brower asked about the \$350 stipend received by a swim team parent coordinator. Mayor Tubbs suggested that any concerns regarding recreation programs should probably be worked with out with the Recreation Department. Deputy Mayor Brower also asked about \$863 paid to Frank Banisch for his attendance at the All Board Supper. He further asked about the Summer Music Program. Administrator Ciccione explained that anything paid through Rec-by-Rider is offset by registration fees. Deputy Mayor Brower also asked whether or not Chatham Disposal is charging a fuel surcharge.

Deputy Mayor Brower moved to approve the Consent Agenda. Committeeman O'Connor seconded the motion.

**Roll Call:** Committeeman Gallop, Aye; Committeeman O'Connor, Aye; Committeewoman Hagner, Aye; Deputy Mayor Brower, Aye; Mayor Tubbs, Aye.



## **Public Hearing on Sewer Assessment**

Mayor Tubbs reopened the Public Hearing on the Sewer Assessment.

1. Dan Guida, River Road resident, asked why this project was not completed at the same time the Ormont Road Sewer Project was completed. Secondly, Mr. Guida stated he was opposed to this project and wanted to know why people who have functioning septic systems have to incur the costs involved. Mr. Guida also indicated that he is not convinced that the sewer project would enhance his property value.

Attorney Woodward explained that when the Ormont Road Sewer Project took place, it was partially in response to a high number of failed septic systems in that immediate area. When other problems developed in the Johnson Drive and River Road area, the Township decided sewers should be put in that whole area. Furthermore, just because a septic system is functioning does not mean that a property owner could be exempted from the assessment. In regard to the issue of a rise in property value, Attorney Woodward cited a letter the Tax Assessor Glen Sherman had sent to the Sewer Assessment Commissioners in which he gave the opinion that the value of all the properties along the sewer project were increased in excess of the particular assessment.

Seeing no further comment, Mayor Tubbs closed the Public Hearing.

## **Discussion**

### **9-11 Memorial**

#### **RESOLUTION 2008-151**

#### **RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR PROFESSIONAL SERVICES WITH SIMONFAY LANDSCAPE SERVICES, INC.**

**WHEREAS**, the Township of Chatham has a need to acquire professional services pursuant to the provisions of N.J.S 40A:11-1 et seq., to design and construct a Memorial to the Township's Victims of the 9/11 attack, and,

**WHEREAS**, the Chief Financial Officer has determined and certified in writing that the value of the contract will exceed \$17,500; and,

**WHEREAS**, the anticipated term of this contract is 1 year; and

**WHEREAS**, Simonfay Landscape Services, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that Simonfay Landscape Services, Inc. has not made any reportable contributions to a political or candidate committee in the Township of Chatham in the previous one year, and that the contract will prohibit the Simonfay Landscape Services, Inc. from making any reportable contributions through the term of the contract; and

**WHEREAS**, the Chief Financial Officer has determined that sufficient funds are available in Ordinance 2008-10; and

**NOW THEREFORE, BE IT RESOLVED** that the Township of Chatham authorizes the Mayor and Clerk to enter into a contract with Simonfay Landscape Services, Inc. in an amount not to exceed \$60,000 as described herein; and,

**BE IT FURTHER RESOLVED** that this contract is awarded as a Non-Fair and Open Contract pursuant to the provisions of N.J.S.A. 19:44A-20.8 and the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and

**BE IT FURTHER RESOLVED** that this contract is awarded without formal competitive bidding as a "Professional Service" in accordance with 40A: 11-1 et seq. of the Local Public Contracts Law because the services required are those of a recognized profession for which bid specifications are not appropriate or required; and

**BE IT FURTHER RESOLVED** that a copy of this resolution as well as the Contract shall be placed on file with the Clerk of the Township of Chatham; and

**BE IT FURTHER RESOLVED** that a notice of this resolution shall be printed as provided by law in the Chatham Courier.

Administrator Ciccarone said that Steve Simonfay of Simonfay Landscape Services, Inc. has been working with the Township for the past few weeks on the landscaping plan for the 9-11 Memorial. Mr. Simonfay presented his concept for the 9-11 Memorial, and discussed the

various options for plants at the site. He also discussed the service options for the fountain. Administrator Ciccarone said that this project is budgeted through Ordinance 2008-10. Lighting options were also discussed. Deputy Mayor Brower raised a concern over the cost of pavers. Mayor Tubbs asked if the project would be less expensive if it were not tied to the gazebo. Administrator Ciccarone suggested that the Township Committee approve a contract not to exceed \$60,000 so that Mr. Simonfay could begin the work in August.

Committeeman O'Connor moved to approve Resolution 2008-151. Deputy Mayor Brower seconded the motion.

**Roll Call:** Committeeman Gallop, Aye; Committeeman O'Connor, Aye; Committeewoman Hagner, Aye; Deputy Mayor Brower, Aye; Mayor Tubbs, Aye.

#### Change in hearing date for DCRP Ordinance

Administrator Ciccarone explained that the notice of introduction for Ordinance 2008-12 had not been published in a timely fashion, and since the statutory requirements were not met, the public hearing has to be rescheduled to August 14, 2008. Furthermore, there is still discussion as to whether or not a person currently enrolled in PERS could remain in PERS if they took a DCRP classified position in a different municipality.

#### CERT and MRC

Chief Goeckel explained that the Police Department needs to update the OEM Manual, and the Community Emergency Response Team program did not have a resolution authorizing the program. The Medical Reserve Corps is a new program coordinated with the Board of Health that needs to be placed under the umbrella of OEM.

### **RESOLUTION 2008-149**

#### **AFFIRMING THE CONTINUATION & AUTHORITY OF THE COMMUNITY EMERGENCY RESPONSE TEAM UNDER THE AUTHORITY OF THE OFFICE OF EMERGENCY MANAGEMENT**

**WHEREAS**, the Township Committee of Chatham Township, County of Morris, State of New Jersey, hereby affirms the continuation of the Community Emergency Response Team (CERT); and

**WHEREAS**, CERT members are volunteers that shall only be activated under the authority of the Office of Emergency Management (OEM); and

**WHEREAS**, CERT members are trained in various fields of emergency response through the OEM and the Madison Board of Health; and

**WHEREAS**, CERT members possess official Township Identification and will be continued to be offered training through OEM;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham in the County of Morris, State of New Jersey as follows:

1. Continuation of the CERT program;
2. CERT members are volunteers that will be activated under the authority of the Office of Emergency Management;
3. CERT members contain official Township identification;
4. CERT members are trained and provided continuing education opportunities through the OEM and Madison Board of Health.

Committeeman O'Connor moved to adopt Resolution 2008-149. Committeeman Gallop seconded the motion.

**Roll Call:** Committeeman Gallop, Aye; Committeeman O'Connor, Aye; Committeewoman Hagner, Aye; Deputy Mayor Brower, Aye; Mayor Tubbs, Aye.

### **RESOLUTION 2008-150**

**AFFIRMING THE INTRODUCTION & AUTHORITY OF THE MEDICAL RESERVE  
CORPS UNDER THE AUTHORITY OF THE OFFICE OF EMERGENCY  
MANAGEMENT**

**WHEREAS**, the Township Committee of Chatham Township, County of Morris, State of New Jersey, hereby affirms the introduction of the Medical Reserve Corps (MRC); and

**WHEREAS**, MRC members are volunteers that shall only be activated under the authority of the Office of Emergency Management (OEM); and

**WHEREAS**, MRC members are trained in various fields of emergency response through the OEM and the Madison Board of Health; and

**WHEREAS**, MRC members possess official Township Identification and will be continued to be offered training through OEM;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham in the County of Morris, State of New Jersey as follows:

1. Introduction of the MRC program;
2. MRC members are volunteers that will be activated under the authority of the Office of Emergency Management;
3. MRC members contain official Township identification;
4. MRC members are trained and provided continuing education opportunities through the OEM and Madison Board of Health.

Committeeman O'Connor moved to adopt Resolution 2008-150. Committeeman Gallop seconded the motion.

**Roll Call:** Committeeman Gallop, Aye; Committeeman O'Connor, Aye; Committeewoman Hagner, Aye; Deputy Mayor Brower, Aye; Mayor Tubbs, Aye.

Bid Results for Modifications to the Chatham Senior Center

Administrator Ciccarone reminded the Township Committee that the Senior Center Improvements project was put out to bid last year, and no bids were received at that time. While it was intended to incorporate this project into a larger project of improvements for the entire building, it was decided however to try again to bid the project so as not to miss out on another summer season when the work could be done. Two bids were received, and Administrator Ciccarone suggested that the contract be awarded to the lowest responsible bidder. Mayor Tubbs and Committeeman O'Connor raised a concern about the fact that the lowest bid was about \$40,000 higher than the cost estimates. Mayor Tubbs also suggested that perhaps Chatham Borough could contribute to this project, since the Senior Center serves both of the Chathams. Deputy Mayor Brower asked if it would be possible to take care of the restrooms in the Senior Center, as the facilities are currently not handicapped accessible. Administrator Ciccarone said that the bathrooms would be part of the project, and if this round of bids is rejected, then they could reduce the project to just take care of the restrooms. Engineer Ruschke will contact the contractor about the cost to do the bathrooms and lighting. The issue will be further discussed at the August 14, 2008 meeting.

Bid Results for Demolition in Area of Former Kitchen in Municipal Building

**RESOLUTION 2008-153**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF  
CHATHAM TO AWARD CONTRACT FOR DEMOLITION AND ASBESTOS  
ABATEMENT AT CHATHAM TOWNSHIP MUNICIPAL BUILDING FORMER  
KITCHEN REVOLUTIONS PROJECT**

**WHEREAS**, the Township Committee of the Township of Chatham has received bids for Demolition and Asbestos Abatement at Chatham Township Municipal Building Former Kitchen Renovations Project and,

**WHEREAS**, "Certification of Availability of Funds" is annexed hereto:

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee on this day, July 17, 2008 that:

- 1) Contract for Demolition and Asbestos Abatement at Chatham Township Municipal Building Former Kitchen Renovations Project be and is hereby awarded to:

**Slavco Construction Inc.**  
**164 Getty Avenue**  
**Clifton, NJ 07011**

On their bid of \$51,700.00.

2) This Resolution shall take effect immediately.

Administrator Ciccarone said that three bids were received for this project. Furthermore, the former kitchen area has asbestos that needs to be removed before any other work could be considered for this area. Deputy Mayor Brower asked for assurance that the Senior Center would not have to be closed down when this work is performed. Engineer Ruschke said that there is a possibility that the whole building may have to be closed when the work is performed.

Committeeman O'Connor moved to adopt Resolution 2008-153. Committeeman Gallop seconded the motion.

**Roll Call:** Committeeman Gallop, Aye; Committeeman O'Connor, Aye; Committeewoman Hagner, Aye; Deputy Mayor Brower, Aye; Mayor Tubbs, Aye.

August Meeting Schedule

Mayor Tubbs suggested that the meeting schedule remain as is, and the August 28, 2008 meeting could be cancelled if necessary.

Executive Session

**RESOLUTION 2008-P-06**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP  
OF CHATHAM IN THE COUNTY OF MORRIS, NEW JERSEY, AUTHORIZING  
CONFERENCE OF THE TOWNSHIP COMMITTEE WITH THE PUBLIC EXCLUDED**

**BE IT RESOLVED** by the Township Committee of the Township of Chatham that it adjourn to an executive session to discuss the following subject matters without the presence of the public in accordance with the provisions of N.J.S.A. 10:4-2b:

Litigation- Cougar Field Lights  
Potential Litigation

The matters discussed will be made known to the public at such time as appropriate action is taken on said matters, and when disclosure will not result in unwarranted invasion of individual privacy or prejudice to the best interests of the Township of Chatham; provided such disclosure will not violate Federal, State or Local Statutes and does not fall within the attorney/client privilege.

Deputy Mayor Brower moved to adopt Resolution 2008-P-06 to go into Executive Session at 10:42 P.M. Committeeman O'Connor seconded the motion.

**Roll Call:** Committeeman Gallop, Aye; Committeeman O'Connor, Aye; Committeewoman Hagner, Aye; Deputy Mayor Brower, Aye; Mayor Tubbs, Aye.

The Township Committee returned from Executive Session at 11:19 P.M.

Committeeman Gallop moved to adjourn at 11:20 P.M. Committeeman O'Connor seconded the motion and it carried unanimously.

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Joy M. Wiley  
Municipal Clerk